

24
M I N U T E S

O F T H E

GENERAL KIRK SESSIONS of Edinburgh ←

A T

Their feveral S E D E R U N T S

H E L D

Anent the T O W N - C O U N C I L of this City

T H E I R

Giving a *Presentation* to supply the present Vacancy

O F

A M I N I S T E R.

E D I N B U R G H :

PRINTED FOR WILLIAM GRAY;

SOLD AT HIS SHOP, EAST WING OF NEW EXCHANGE

MDCCLXIII.

MUSEUM

OF THE

General Kirk Sessions of Edinburgh

AND

Thenceforward

AND

And the Town Council of this City



OF

A MUSEUM

EDINBURGH

PRINTED FOR WILLIAM GRAY

SOLD AT HIS SHOP, EAST WING OF NEW EXCHANGE

MDCCCLXXII

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ADVERTISEMENT.

IT is doubtful whether the following MINUTES had seen the light, had it not happened, that in a late secret * publication, intituled *Faction detected*, the Sessions are, in a very particular manner, accused of factious intentions in their proceedings, and represented as a set of men greatly inferior to their predecessors in office.—The public has it now in their power to judge of their proceedings, and, by the following list of their names, of their merit as citizens.

11 JY 63

* This is called a *secret publication*, because it is not to be purchased for money; is only given as a favour, and that to very few.

ROLL

ROLL of the GENERAL SESSIONS of the City of Edinburgh, from Ja- nuary 1762 to January 1763.

MINISTERS, as they came to the City.

MR William Guthart
Dr George Wishart
Dr Patrick Cumming

Mr John Glen
Dr Robert Wallace
Dr Alexander Webster
Dr John Jardine
Dr George Kay

Mr Robert Walker
Dr Hugh Blair
Dr Robert Dick
Dr Daniel M'Queen
Mr Henry Lundie
Dr William Robertson
Mr John Erskine
Dr John Hyndman, dead

North-west, or Tolbooth Church.

ELDERS.

Mr James Spence secretary
to the bank of Scotland
Baillie John Forrest merchant
Baillie William Tod merchant
Mr Robert Walker surgeon
Mr Robert Russell merchant
Mr John Welsh goldsmith

DEACONS.

Mr Alexander Noble candle-
maker
Mr Patrick Bowie weaver
Mr Walter Peter bookseller
Mr Archd. M'Coul merchant
Mr Pat. Murray merchant
Mr Alexander Bell barber

North Kirk, or New Church.

Baillie J. Carmichael mercht.
Baillie R. Fleeming printer
Mr Jos. Williamson advocate
Mr Malcolm Brown sadler
Mr Thomas Clelland sadler
Mr James Graham writer to
the signet

Mr Ja. Robertson merchant
Mr Ar. Richardson bookbinder
Mr Alexander Hay wright
Mr Alex. Dickieson glazier
Mr John Brown merchant
Mr Samuel Brown watchma-
ker

North-east,

South-west, or Old Gray-Frains.

Mr. John Munday merchant	Mr. John Munday merchant
Mr. Charles Howison Wright	Mr. Charles Howison Wright
Mr. George Pittman mer-	Mr. George Pittman mer-
chant	chant
Mr. T. Trotter, jun. merchant	Mr. T. Trotter, jun. merchant
Mr. Robt. Johnson merchant	Mr. Robt. Johnson merchant
Mr. Pat. Crawford merchant	Mr. Pat. Crawford merchant

New North Church, or Hawks-Hole.

Mr. John Munday merchant	Mr. John Munday merchant
Mr. James Dalglish merchant	Mr. James Dalglish merchant
Mr. Angus M'Pherson Taylor	Mr. Angus M'Pherson Taylor
Mr. William Burns merchant	Mr. William Burns merchant
Mr. William Trotter merchant	Mr. William Trotter merchant
Mr. William Cunningham shoe-	Mr. William Cunningham shoe-
maker	maker

South-east-west, or New Gray-Frains.

Mr. David Semmervel merchant	Mr. David Semmervel merchant
Mr. Thomas Jackson Smith	Mr. Thomas Jackson Smith
Mr. Walter Munday brewer	Mr. Walter Munday brewer
Mr. Charles Cunningham baker	Mr. Charles Cunningham baker
Mr. Alexander Wardrop	Mr. Alexander Wardrop
Mr. George Heggie Smith	Mr. George Heggie Smith

An A C T

OF THE

GENERAL SESSIONS OF EDINBURGH.

*At Edinburgh, the 3d day of December,
One thousand seven hundred and sixty-
two years.*

THE General Sessions being met, and executions produced, the Reverend Dr George Withart, at the meeting's desire, took the chair. After prayer, he acquainted the meeting, that he had called them in consequence of an application from a great many elders, who signified to him, that they had matters of consequence to lay before the meeting. They approved of their being called.

Whereupon Mr John Forrest, one of the elders who had joined in the application, represented as follows: " It was well
" known, that the uniform custom of e-
" lecting Ministers to this City has been,
" by the Council, Ministers, and Elders,
" from leets made up by the particular
" Sessions: but the Council had now
" thought proper to restrict that power
B " to

“ to themselves ; whereby Ministers, Elders and Deacons are deprived of a right they have been long in possession of. They therefore thought it a proper measure, that the General Sessions should meet, and determine among themselves what part they are to act upon this occasion.”

The meeting, after reasoning upon this important matter, came to the following resolution: “ Whereas it hath been the uniform and laudable practice in this city, for a long course of time, to fill up the vacant charges with Ministers chosen and called by the Honourable Magistrates and Town-council, the Reverend Ministers of the City, and the Elders of the respective Sessions, all met together in a conjunct body ; which method of election is reasonable in itself, is very acceptable to the inhabitants of the Town, and hath been attended with very happy consequences : and whereas it was expected, on these and other accounts, that the same wise and good method would have been pursued at this time in the call of a Minister to supply the present vacancy : what hath been now represented to the General Sessions concerning the late

late procedure of the Town-council in this matter cannot fail to affect them very sensibly; when they consider what may be the hurtful consequences of such an exercise of a power, which, if it is lodged in the Council, is surely so for the good of the community, who intrust them with the management of their concerns.

The General Sessions think it their duty to testify their disapprobation, as they now do, in the strongest manner, of a measure so new and precipitate, so unreasonable in itself, and injurious to them, which overturns the method of Election that has been uniformly followed for a long course of years, and which may be accompanied with the most deplorable effects with regard to the important interests of religion in the City.

The General Sessions would fain hope, that the Honourable Magistrates and Town-Council will reconsider this matter, and view it in its proper light; as they are persuaded, that all who wish well to the true interests of the City, and have a due regard to the concerns of religion in their own and in the succeeding age, will take it into their most serious consideration,

tion, and weigh the consequences of such an extraordinary measure.

And they do hereby appoint an Extract of this their unanimous Resolution to be transmitted, with a respectful letter from their Moderator, to the Lord Provost, to be communicated to the Council at their first meeting.

A motion was then made, that Extracts of this Resolution should also be transmitted to the Merchant-company, and the several incorporations of the City. But some members being of a different opinion, the question was put, Agree to the said Motion, or, Not? The roll being called, and Votes marked, it carried by a great majority, Agree. Wherefore the Meeting did, and hereby do appoint Extracts to be transmitted accordingly."

From which last appointment, the Moderator, leaving the chair, entered his dissent; as did also Dr Jardine, Dr Blair, and Dr Robertson, Ministers; and Mr Joseph Williamson, Dr Matthew Stewart, Mr Adam Ferguson, and Mr John Campbell, Elders; and took instruments in the clerk's hands. *Extracted by*

JO. DUNCAN, for
JAMES CRAIG, *Session-Clerk.*

E X.

E X T R A C T

O F T H E

MINUTES of the GENERAL SESSIONS
of EDINBURGH.

*At Edinburgh, the 16th day of December,
One thousand seven hundred and sixty-two
years.*

THE General Sessions being called, by order of the Reverend Dr George Wishart to the clerk, did convene in the New-church isle, and executions from the several church-officers of their being duely warned were produced. The said Dr Wishart, at the desire of the meeting, took the chair. After prayer, he acquainted them, that, according to their appointment on the 3d current, he had transmitted to the Lord Provost an Extract of the Resolution then passed by them; and had now called them, in consequence of a letter he had received from his Lordship, transmitting to him Answers by the Magistrates to the said Resolution, and desiring a meeting of the General Sessions to be called, that the same might be communicated

municated to them. The said letter being read, the meeting approved of their being called. Then the Answers by the Lord Provost, Magistrates and Council, were produced and read; the tenor whereof follows:

*At Edinburgh, the 15th day of December,
One thousand seven hundred and sixty two
years.*

The which day the Lord Provost, Magistrates and Council, with the Deacons of Crafts, ordinary and extraordinary, of the City of Edinburgh, being in Council assembled, the Lord Provost, preses of the committee appointed to make Answer to the Resolution of the General Sessions, presented the following Answers, which were read in Council, whereof the tenor follows:

ANSWERS *to the RESOLUTIONS
past by the General Sessions of this city on
the 3d current.*

THE Magistrates and Council having considered the Resolutions of the General Sessions of the 3d current, return
the

the following Answers: " That the Council have the highest esteem for the Reverend Ministers and General Sessions of this City, and every application from them will ever have a proper regard paid to it: at the same time, as the Lord Provost, Magistrates and Council are undoubted patrons of all the churches built or to be built within this City, and have the sole right of nominating and presenting ministers in case of vacancies, they consider it as their indispensable duty to preserve this right, and transmit the same inviolable and unprejudiced to their successors in office.— It is true that, for many years past, the Council have been in use to allow the Reverend Ministers and Elders of this City to vote along with them in the calling and electing of Ministers; and, while that indulgence was used with moderation, it did not occur that any bad consequence could follow upon it: but being informed, that, so soon as the Lady Yester's church became vacant, by the decease of the Reverend Mr John Hyndman, parties were forming in order to disappoint the Council of the choice of his Successor, which might have been productive of unusual heats and animosities, they could not avoid

void concluding, that the exercise of the right of patronage was not only proper in itself, but highly expedient at this time. After all, the Council cannot help thinking, that the Act of the General Sessions is conceived in terms importing, that the indulgence formerly shown is not now so much claimed by way of favour, as demanded in point of right. And, indeed, the General Sessions, at the very time they voted their application to the Council, did, without waiting to see in what manner it would be received, or what effect it would produce, agree to transmit Minutes of their proceedings to the Merchant-company, and the several Incorporations of this City; thereby plainly indicating, that they meant to extort a compliance with their request by irregular means, rather than to obtain it by way of favour; or, which the Council would be sorry to suppose, the publication and transmission of this Resolution has been contrived by some, with an intention to alienate the minds of the inhabitants from those who have the administration of the City, and somehow inadvertently adopted by the General Sessions.—Were matters entire, the Magistrates are of opinion, that this
 Act

Act of the General Sessions, so framed and published, would have laid them under the necessity of exercising the right of patronage vested in them by law. And as the presentation and letter of acceptance are lodged in the hands of the Moderator of the presbytery of Edinburgh, a *jus quaesitum* is thereby acquired to the Reverend gentleman presented, which, in all events, puts it out of the power of the Council to recal what is past: and therefore the Council would fain hope, that the Reverend Ministers and Elders will, upon cool recollection, do every thing in their power to promote peace and harmony in this City, by cordially concurring with the choice made by the Magistrates and Council." Which being considered by the Magistrates and Council, they approve of the said Answers, and appoint an extract thereof, without abiding a reading in the Council, to be transmitted by the Lord Provost to the Rev. Mr George Wishart Moderator, to be by him laid before the General Sessions.

Extracted by (Signed) GEO. LINDSAY.

As the same in the clerk's hands bears.

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The minutes of last meeting being called for and read, the clerk reported, That, according to the orders given him, he had transmitted extracts to the Merchant-company, and the several Incorporations of the City. The General Sessions, considering the Resolution contained in the said Minutes, did, without a vote, adhere to the same. But the Moderator, Dr Robertson, Dr Jardine, Dr Blair, Dr Mathew Stewart, and Professor Ferguson, who had dissented from the appointment to transmit extracts to the Merchant-company, &c. craved that it might be marked as follows, agreeably to what had been expressed by one of them at the passing of that Resolution; to wit, That though they had agreed to the same in general, being unwilling (from a regard to peace) to enter into disputes upon particulars, or to insist for a question; that this was not understood as importing, that they approved of every expression contained in the said Resolution, The General Sessions then appointed the following Committee, *viz.* Mr Glen, Dr Webster, Dr M'Queen, Dr Dick, Mr Walker, and Mr Lundie, Ministers; and Baillie John Forrest, Mr James Spence, Baillie Robert Forrester, Baillie William Tod, and

and Mr William Galloway, Elders, to prepare a scron or an Answer to what had been laid before them from the Council; this Committe to meet immediately upon the rising of the Meeting, and their draught to be laid before the Sessions upon Monday next, at five o' clock in the evening, in the Trustees-Hall, in Scot's close in the Cowgate; to which time and place the General Sessions adjourned, and appointed the clerk to give the usual orders to the beadies to warn the members to that diet.

At Edinburgh, in the Trustees-Hall, the twenty-third day of December, One thousand seven hundred and sixty-two years.

THE General Sessions being met by adjournment, and executions from the several church-officers produced, Dr Witheart, at the Meeting's desire, took the chair. After prayer by him, the Minutes of last Sederunt were read. The report of the Committe appointed last meeting being called for, they gave in a draught of a Reply to the Answers made by the Honourable Magistrates and Town-council, to the Resolution of the

General Sessions of the 3d current. The said Answers which had been given in to the last Meeting being again read, the Reply, as prepared by the Committee, was also read, the tenor whereof follows:

The REPLY of the General Sessions to the ANSWERS made by the Magistrates and Town-Council of the city of Edinburgh to the ACT of the General Sessions of the 3d current.

THE General Sessions having taken into consideration the Answers returned to their Resolutions of the 3d current by the Honourable Magistrates and the Council, judge, That their duty requireth them to make the following Reply: "The General Sessions at all times entertain the highest respect for the office of Magistracy, and have at present a due esteem for those gentlemen who are in this station, and for all others who are joined with them in the government of the City, being ready to strengthen their hands in promoting every design beneficial to the Community. As the General Sessions conceive themselves to be entrusted, in some degree, by the laws of the land and the

the constitution of the church, with the oversight of the religious concerns of the City, they found themselves obliged to remonstrate to the Town-council, against the late Act of their Administration, which, in the eyes of the General Sessions, appeared to be derogatory from their antient privileges, hurtful to the peace of the City, and injurious to the interest of religion. The Council having offered reasons to justify themselves for not complying with this remonstrance, the Sessions observe with regret, that these reasons appear to them ill founded, and altogether unsatisfactory. The Right of Patronage claimed by the Town-Council, and the validity of the Presentation lately given to a Minister of this Church, in order to supply the Pastoral Charge now vacant in this City, are points which, if they become matter of litigation, will be tried in the civil and ecclesiastical courts, which have a jurisdiction in such cases. The General Sessions do not claim this jurisdiction; and as the Right of Patronage hath not been considered, much less brought into dispute, either by them, or for aught they know by any Society or individual within the City, the Sessions
are

are surprized to find the preservation of this Right alledged by the Town-council, as the reason of their late Act of Presentation, while they do not pretend that they were in danger of losing their right, or that they could not secure it by a less offensive method. The Town-council affirm, That being well informed, " That " so soon as the Lady Yester's Church became vacant by the decease of the Reverend Mr John Hyndman, parties " were forming in order to disappoint " the Council in the choice of his Successor, which might have been productive of unusual heats and animosities," they could not avoid concluding. " That " the exercise of the Right of Patronage " was not only proper in itself, but justly " expedient at this time." The General Sessions, who are unacquainted with any means either unlawful or unusual that were employed towards the forming of parties upon the death of Mr Hyndman, admit, that the fear of disappointment in the election of a Minister was the chief motive that induced the Council to exercise the Right of Patronage; but are at a loss to discover what public interest, either civil or religious, would have been endangered

endangered by this disappointment. The Sessions can as little comprehend what peculiar title the present Council enjoy, beyond all their predecessors since the Revolution, to have their pleasure submitted to in the Election of a Minister. Is the Right of Patronage, now claimed by the Town-Council, more valid in their hands, than it hath been in the hands of their predecessors for fifty years past? Are the present Magistrates and Counsellors, who adopted the measure complained of, so much distinguished by superior abilities and virtues from all who have held the same station before them, as to render a difference of opinion from them in the choice of a Minister unexcusable and contemptible? Although the Public should be disposed to pay them this compliment, the Sessions are persuaded that the modesty of the Town-council would decline the accepting it. The Sessions hope to be forgiven, for thinking that the present Council had a good example of moderation set them in the conduct of their predecessors, who, in the election of a minister, chose to act upon a level with the members of the General Sessions, claiming no other preeminence than
what

what arose from the respect and confidence of their fellow-citizens, nor calling to their aid the rigour of a grievous law, and the heavy hand of power, in order to conceal the low state of their own influence, and to supply the want of that natural authority, which is the usual attendant of wisdom and integrity. The next reason of expediency produced by the Council for justifying their conduct, is of a singular nature: they presented a Minister to the vacant benefice, in order to prevent unusual heats and animosities! It would not become the General Sessions to call in question the sincerity of a declaration solemnly made by the Town-council; but it surely may be said, without just cause of offence, that the expedient employed by them for preventing and allaying heats and animosities, would have occurred to no body of men within the City but themselves. Any other society, who had published their opinion upon this subject with candour and sincerity, would have foretold an Act of Presentation to be the fruitful source of the most violent animosities; such a practice being universally odious to the inhabitants, and contrary to their ancient and most respectable usages.

usages. The Magistrates and Council are
 pleased to complain, that the Act of the
 General Sessions is conceived in terms im-
 porting, " That the indulgence formerly
 " shewn, by allowing them to vote in
 " the electing of Ministers, is not now
 " claimed so much by way of favour,
 " as demanded in point of Right;"
 and also, " that the General Sessions, at
 " the very time they voted their application
 " to the Council, did, without waiting to
 " see in what manner it would be re-
 " ceived, or what effect it would pro-
 " duce, agree to transmit Minutes of
 " their proceedings to the Merchant-
 " company, and the several Incorpora-
 " tions in the City; thereby plainly in-
 " dicating, that they meant to extort a
 " compliance with their request by irre-
 " gular means, rather than to obtain it
 " by way of favour." The Sessions find it
 difficult to account for such a misapprehen-
 sion of their meaning, without supposing
 that the Council had forgotten the tenor
 of the late Act of the General Sessions,
 and the principal circumstances of their
 conduct in this affair. Whether the Mi-
 nisters and Elders possess a legal right of
 voting in the election of a Minister, which
 D they

they can support in the civil court, in opposition to the patron, is a question which they do not consider at present: no part of their conduct hitherto hath proceeded upon this plan. Had the Ministers and Elders been asserting a right of this kind, they would have acted as a party litigant against the Town-council. Instead of a request, they would have sent them a summons, and called them into the civil court, where it is the privilege of every society, and of the meanest individual, to defend his right against the most powerful. But the application of the General Sessions to the Council hath been of a different kind, by remonstrance and entreaty. If the Sessions have not relied so much upon the equity and impartiality of the Council, as to neglect all other means of relief, the Council cannot be unacquainted with the grounds of this diffidence. The irregular steps by which the Act of Presentation was compleated, the dark machinations and unseemly circumstances which, according to our information, accompanied this whole transaction, had diminished that confidence which the Town-council might have otherwise thought themselves entitled to
from

from the Sessions. For this reason, they communicated their sentiments, in the most regular and decent manner, to the Societies whose Representatives make a great part of the Town-council, that the application of the Sessions to the Council might be aided by the more powerful interposition of these Societies. The event shewed that the suspicions of the Sessions were not groundless; as the Council, by a singular, and, if we are well informed, illegal precipitancy, had endeavoured to put it out of their own power to give redress of the grievance complained of, having lodged the presentation, and the letter of acceptance, with the Moderator of the Presbytery some time before the meeting of the General Sessions. The Town-council think proper to insinuate, "That
 " the publication and transmission of the
 " resolution of the General Sessions has
 " been contrived by some, with an inten-
 " tion to alienate the minds of the Inha-
 " bitants from those who have the admi-
 " nistration of the City, and somehow in-
 " advertently adopted by the General Ses-
 " sions." An insinuation of this kind, against such a body as the General Sessions, is not likely to gain credit at any
 D 2 period,

period, unless when it shall generally be believed, that the Town-council have, by a violent, oppressive, and interested conduct, forfeited the esteem, and merited the resentment of their fellow-citizens; a supposition which the Sessions are not disposed to apply to the present Council, and which, no doubt, they would think highly injurious. The Town-council inform the Sessions, “ That, as the presentation and letter of acceptance are lodged in the hands of the Moderator of the presbytery of Edinburgh, a *jus quæsitum* is thereby acquired to the reverend gentleman presented, which in all events puts it out of the power of the Council to recall what is past; and therefore the Council would fain hope, that the Reverend Ministers and Elders will, upon cool recollection, do every thing in their power to promote peace and harmony in this City, by cordially concurring with the choice made by the Magistrates and Council.” The General Sessions leave the *jus quæsitum* of the Presentee to be discussed in the civil and ecclesiastical courts, which have the proper jurisdiction: the General Sessions do not claim it. At the same time, they cannot avoid observing,

observing, That if the *jus quaesitum* means a right to the vacant benefice in Edinburgh, it is not easy to conceive how this right can be acquired by a Presentee who hath at present a pastoral charge, and possesseth a benefice in this Church, till, in the due course of ecclesiastical law, he be removed from his present charge, and admitted a Minister of this City. If the *jus quaesitum* imports the right of a Presentee to insist before the ecclesiastical courts, independent of his patron, in a process for obtaining a translation, the Sessions, without determining the solidity of this right, freely admit that the exercise of it would make a becoming counterpart to the Act of Presentation by the present Council; as neither the one nor the other of these odious practices will find a parallel in the history of our church, since the glorious aera when we were blessed by providence with the complete establishment of our civil and religious liberties. The General Sessions, in their present capacity, cannot with propriety either concur with the choice made by the Magistrates and Council, or oppose it, as they are neither judges nor parties in this affair; but the
Sessions

Sessions will most cordially comply with the view of the Honourable the Magistrates and the Council for promoting peace and harmony in the City; and will, moreover, use their best endeavours to advance (what they hope the Council have equally at heart) a regard to justice, fidelity and truth, without which no solid peace and harmony can subsist in any society. The General Sessions beg leave to entreat the Honourable the Magistrates and the Council to consider seriously the unhappy consequences that may be apprehended if they should persist in the measure which they have lately adopted, and to proceed no farther in a design which may long prove fatal to the peace of the City and to its most important interests: and the Sessions are persuaded, that the Council may yet find a remedy for what is past, if they employ their own prudence to search for it. If these entreaties should prove ineffectual, nothing remains for the General Sessions, but ardently to wish, that this unhappy contention may be brought to a speedy and good issue: and their firm resolution is, that in whatever capacity they may be obliged to act in the progress of this affair, their

conduct

conduct shall be entirely regulated by a regard to the interests of our holy religion, to the laws of our country, to the rules of the church, and to the real welfare of the city of Edinburgh." As the said Replies extant in the clerk's hands bear.

After some reasoning upon the above draught, it was agreed to put the question, Approve the same, or not? and the rolls being called, and votes marked, it carried by a great majority, Approve. Therefore the General Sessions did, and hereby do approve of the above Reply to the Honourable Magistrates and Town-council. From which judgment of the meeting, approving of the said Reply, the Moderator, leaving the chair, entered his dissent; as did also Dr Robertson, Dr Jardine, and Dr Blair, Ministers; with Dr Matthew Stewart, and Mr Adam Ferguson, Elders: and thereupon all took instruments in the clerk's hands. The General Sessions appointed an Extract thereof to be transmitted, betwixt and Wednesday next, to the Lord Provost, that the same may be laid before the Council.

Extracted by

JO. DUNCAN, for
JAMES CRAIG *Session Clerk.*

I believe every man in the cloth is bound to
 stand at the side of his fellow man, and to do
 what he can for the relief of the poor.

11 JY 63

all those which present on the morning
 approving of the late Regency the Mode-
 ration, leaving the choice, entered his dis-
 sent; as did also Dr. Robertson, the Jan-
 nety, and the Bishop of Meath; with Dr.
 Mathew Stewart, and Mr. Adam Clarke.
 The other members all took in-
 strument in the clerk's hands. The Ge-
 neral Session appointed an Extraordinary
 of to be appointed, between and Wednes-
 day next, as the Lord Justice, that the
 thing may be laid before the General

JO. DUNCAN
JAMES GRADY

